

II. This is in response to the final Office Action dated January 17, 2002, the period for reply having been extended by the above petition and payment of the extension fee. Please consider the following remarks.

Remarks

The claims are 1-6, with claims 1 and 4 being independent.

Reconsideration of the present claims is respectfully requested.

Claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stray-Gundersen (U.S. Patent No. 5,114,723) in view of Schade (U.S. Patent No. 3,934,047) in further view of Jenner (U.S. Patent No. 4,927,646). Claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over page 2, lines 16-31 of Applicants' specification in view of Jenner. Applicants respectfully traverse these rejections.

At the outset, Applicants' attorney would like to thank the Examiner for interviewing the present case on July 9, 2002. During the course of the interview, the presentation of a §1.132 declaration from William Mutilangi, a named inventor, was discussed. The Examiner indicated that if such factual evidence of synergism of the claimed combination of calcium phosphate, calcium sulfate and potassium sulfate were presented, then the case would be allowable over the presently cited art.

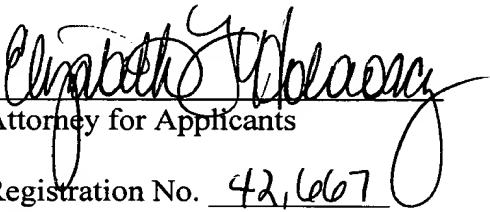
Accordingly, Applicants herewith submit the declaration of William Mutilangi regarding the synergistic effect of the claimed metal salt combination. In short, more pronounced and better effects on overall sweetness intensity, aftertaste duration, cola flavor strength and mouthfeel are attained using a combination of calcium phosphate,

calcium sulfate and potassium sulfate in a low-calorie beverage sweetened with sucralose/acesulfame-K than when using any of the salts alone in such a beverage. It is Applicants' current position that this synergistic blend of metal salts, as well as the particular amount in which the blend is present, is not disclosed or suggested by any of the presently applied references. Furthermore, Applicants' previously presented arguments are incorporated by reference herein.

The submission of the §1.132 declaration and the present response clearly place the present application in allowable form. Therefore, favorable reconsideration and passage to issue of the present case is respectfully requested. If, upon consideration of the declaration and response, the Examiner believes there are any outstanding issues, it is respectfully requested that the Examiner contact the undersigned attorney in an effort to expeditiously resolve such issues.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
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